

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cr. No. 18-739 MV
	)	
<b>KEVIN VIGIL,</b>	)	
	)	
Defendant.	)	

UNITED STATES' RESPONSE TO DEFENDANT'S MOTION  
FOR FURLOUGH

The United States opposes Defendant's Motion for Furlough to Attend Funeral (Doc. 68). In this motion, Defendant asks to be released from custody overnight so that he can attend his daughter's funeral services. These services are scheduled to occur in the Espanola area, where the crime took place and where the minor victim continues to reside. Given the nature of Defendant's offense and the lack of information about where Defendant plans to stay during the overnight furlough, the United States opposes Defendant's request.

Background

On March 13, 2018, a federal grand jury returned an indictment charging Defendant Kevin Vigil with two counts of aggravated sexual abuse in Indian Country, in violation of 18 U.S.C. §§ 1152, 2241(c) and 2246(2)(A). (Doc. 25.) The alleged crimes occurred on the Ohkay Owingeh Pueblo, in the Espanola area. (Doc. 60.)

On February 21, 2018, the defendant appeared before United States Magistrate Judge Steven C. Yarbrough for a detention hearing. (Doc. 8.) After considering the arguments of both parties, Judge Yarbrough ordered the defendant's detention pending trial. (Docs. 8, 12.) Judge Yarbrough concluded that the defendant would, if released, pose a danger to the community

given the nature of the offense, defendant's criminal history, and defendant's history of alcohol or substance abuse. (Docs. 8, 12.) The defendant appealed this determination. (Doc. 11.) After holding another hearing, this Court affirmed the magistrate judge's determination that no condition or combination of conditions would reasonably assure the safety of the community should defendant be released. (Doc. 40.).

Argument

For the reasons laid out in the government's response to Defendant's detention appeal (Doc. 18), Defendant is a danger to the community. The conditions of Defendant's proposed furlough do not sufficiently address or mitigate this risk. Defendant is asking to visit the area where the crime occurred and the minor victim continues to reside. He proposes that the Court release him overnight, with no electronic monitoring, and no information about where he will be staying. The purpose of the furlough would be for Defendant to attend a family funeral, where children presumably will be present. Allowing Defendant's release under these conditions, with no structured supervision, creates a serious risk to the public. This Court has already found that even the most restrictive conditions, such as electronic monitoring, restrictions on travel, and restrictions on contact with children, would not protect the community if Defendant were released. In accordance with this finding, the United States respectfully requests that Defendant's Motion for Furlough be denied.

Respectfully submitted,  
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United States Attorney

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I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to defense counsel and probation.

Electronically filed on 5/21/19

ALLISON C. JAROS

Assistant United States Attorney